

U. S. Application No. 10/824,349  
Attorney Docket No. 2003B043C  
Reply to Office Action of October 31, 2007  
Response dated February 28, 2007

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REMARKS:

Applicants wish to thank the Examiner for the courtesies extended during the in-person interview of February 23, 2007. In the telephone call of October 25, 2006, Applicants were asked to elect certain claims to prosecute in compliance with the Examiner's requirement pursuant to 35 U.S.C. §121. Applicants are confirming on the record their election to prosecute Group I (claims 1-62 and 64-68), with traverse. Claim 63 is withdrawn from consideration and Applicants reserve the right to rejoin claim 63 with claim 1 once it is allowed per the Examiner's suggestion on page 2 of the Action.

Reconsideration of this application is requested. Claims 1-62 and 64-68 are currently pending. Claim 1 has been amended for grammatical clarity. Accordingly, no new matter has been added.

Claim Objections

Claim 20 was objected to for its use of the term "Soxhlet heptane." Applicants would like to clarify for the record that, as stated beginning on page 14, line 7 of the application, that a "Soxhlet heptane insoluble refers to one of the fractions obtained when a sample is fractionated using successive solvent extraction technique."

Claim Rejections - 35 USC § 112

Claims 61 and 62 were rejected as being indefinite for containing the term "less than about." According to MPEP §2173.05,

"The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification... When a term of degree is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree."

Applicants respectfully submit that the specification, specifically page 37, lines 1-4 and page 37 lines 10-17, adequately provides a standard for which to measure the parameters of claims 61 and 62,

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respectively. Therefore, of ordinary skill in the art would understand what is claimed, in light of the specification and more specifically, how to measure the claimed parameters. Based upon this reasoning, Applicants respectfully submit that claims 61 and 62 are not indefinite and request that this rejection be withdrawn.

#### **Double Patenting Rejections**

Applicants respectfully submit that, due to the still-changeable nature of the claims, these rejections should be held in abeyance, *e.g.*, until such point as the pending claims are allowable but for such double patenting rejections. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully submit that these rejections are not ripe for resolution until there are otherwise allowable claims in the instant case and allowed or issued claims in the cases to which terminal disclaimers are sought. Indeed, Applicants respectfully note that the MPEP instructs the Examiner to withdraw a provisional double patenting rejection in the earlier filed of two pending applications and to allow that earlier filed application to issue as a patent without a terminal disclaimer. See MPEP 804(I)(B)(1).

#### **Rejection Under 35 U.S.C. § 102(a)**

The Examiner has rejected claims 1-17, 19-25, 34, 38-40, 43-54, 58, and 64-68 as anticipated by U.S. Publication No. 2002/0007033 to Karandinos, et al. (hereinafter "Karandinos"). Applicants respectfully traverse the rejection and request reconsideration.

Anticipation requires a showing that each limitation of a claim is found in a single reference, either expressly or inherently. *Crown Operations Int'l Ltd. v. Solutia Inc.* 289 F.3d 1367, 1375-77 (Fed. Cir. 2002). The Examiner must offer evidence of literal presence or a reasoned explanation that every element of the claim is present in the cited prior art inherently. Applicants respectfully assert that the Examiner has not shown that all elements of each claim of the present invention are found in a single prior art reference.

Karandinos discloses a poly-alpha olefin inter-polymer that may be composed of A) from 60 to 94 % of units derived from one alpha mono-olefin having from 3 to 6 carbon atoms and B) from 6 to 40 mol % of units derived from one or more other mono-olefins having from 4 to 10 carbon atoms

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and at least one carbon atom more than A); and C) optionally from 0 to 10 mol % of units derived from another copolymerizable unsaturated hydrocarbon, different from A) and B).

Karandinos does not teach what the present invention recites in claim 1 (from which all other claims depend), "at least 50 mol% of one or more C<sub>3-40</sub> olefins." Karandinos also fails to disclose a functionalized C3 to C40 olefin polymer as recited in claim 1 (from which all other claims depend). Additionally, the Examiner has not addressed the claim 1 feature of Dot T-Peel strength, nor many of the other claimed features such as heat of fusion (claim 2, *inter alia*) and melt viscosity (claims 5-8, *inter alia*). The Examiner has not shown that all the elements or features of the claims are present in Karandinos nor offered any evidence as to why the claimed features may be inherent.


Therefore, because the Examiner has not fulfilled her duty with respect to any of above-listed claims, Applicants respectfully request that the rejection be withdrawn.

#### Conclusion

In light of the above, Applicants respectfully request reconsideration, withdrawal of the objections and rejections and allowance of the claims. Should the Examiner have any questions or if she believes it will expedite or assist her examination, she is invited and encouraged to telephone the undersigned attorney at her convenience.

2/28/07  
Date:

Respectfully submitted,

  
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